

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 3733 Customer No.: 035811
Examiner :
Serial No. : 10/589,314
Filed : August 11, 2006
PCT No. : PCT/FR2005/000340
PCT Filed : February 11, 2005
Inventors : Maurice Bourlion
: Dominique Petit
: Gérard Vanacker
Title : DEVICES THAT MONITOR
: PENETRATION OF AN
: INSTRUMENT IN AN
: ANATOMICAL STRUCTURE

RECEIVED
12 MAR 2008
International Division
Legal Staff

Docket No.: BDM-06-1214
Confirmation No.: 6499

Dated: March 12, 2008

RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313

To the Attention of the Office of PCT Legal Administration

**EXPRESS MAIL CERTIFICATION
37 C.F.R. §1.10**

Express Mail Label No. EM 045820235 US

Date of Deposit: March 12, 2008

Description of Contents: Postcard, Claim of Extension of Time, in duplicate, Renewed Petition Under 37 C.F.R. §1.47(A), copy of Statement of Sabine Tracol dated 02/15/08, copy of Letter to Mr. Vanacker dated 01/21/08 and English Translation of Letter, copy of Proof of Mailing, and copy of Proof of Receipt, and copy of Letter to Ms. Tracol dated 02/16/08 and English Translation of Letter.

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to Commissioner for Patents, **Office of PCT Legal Administration**, P.O. Box 1450, Alexandria, VA 22313-1450.

Victorine B. Meise

(Typed or printed name of person mailing paper or fee)

Victorine B. Meise

(Signature of person mailing paper or fee)

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Dated: March 12, 2008

CLAIM OF EXTENSION OF TIME FOR RESPONSE
UNDER 37 C.F.R. §1.136(a)

Mail Stop PCT

Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313

To the Attention of the Office of PCT Legal Administration

Sir:

Applicants, through their undersigned attorney, hereby respectfully claim a one (1) month extension of time under 37 C.F.R. §1.136(a) extending the time for Response to the Decision dated December 18, 2007 from February 18, 2008 to March 18, 2008.

Confirmation of the foregoing Extension of Time is respectfully solicited.

The Commissioner is authorized to charge the **\$120** fee to Deposit Account No. 50-2719.

The Commissioner is also authorized to charge any fees or insufficiency to Deposit Account No. 50-2719. A duplicate copy of this claim is enclosed.

Respectfully submitted,


T. Daniel Christenbury
Reg. No. 31,750
Attorney for Applicants

TDC/vbm
(215) 656-3381

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313

To the Attention of the Office of PCT Legal Administration

Sir:

This request for consideration is in response to the Decision dated December 18, 2007.

The Applicants acknowledge confirmation that Items (1), (2) and (3) have been satisfied with respect to 37 C.F.R. §1.47(a). Item (4) is further addressed below.

The Applicants enclose additional evidence demonstrating refusal of the inventor to sign the Application papers. In particular, the Applicants enclose a copy of a Statement of Ms. Sabine Tracol together with a letter that she forwarded to the inventor who refuses to execute the Application, an English translation of that letter as well of proof of sending that letter and proof of acknowledgement of that letter by the addressee.

That evidence demonstrates that the French firm known as BREDEMA is the French patent attorneys for the assignee SPINEVISION for this Application and that she personally sent a letter dated January 21, 2008 to Mr. Vanacker along with a certificate of proof of mailing as well as a proof of receipt. That letter included a copy of the Application and the appropriate papers for

signature by Mr. Vanacker and requested that he return those documents to her by February 10. As of February 15, Mr. Vanacker had exceeded the requested return time by five days.

The Applicants also enclose a copy of a letter (and an English translation thereof) dated February 16, 2008 from Ms. Elisabeth Nenon, who now represents Mr. Vanacker, to the care of Ms. Tracol that unequivocally shows that Mr. Vanacker refuses to sign the Application papers.

The Applicants therefore respectfully submit that this is additional evidence on top of the prior evidence already submitted that Mr. Vanacker refuses to execute the Application. The Applicants therefore respectfully submit that Item (4) has now been satisfied.

The Applicants respectfully request that the Petition under 37 C.F.R. §1.47(a) be granted and that the Application be passed to the Examination Division for examination on the merits.

Respectfully submitted,



T. Daniel Christenbury
Reg. No. 31,750
Attorney for Applicants

TDC/vbm
(215) 656-3381

STATEMENT

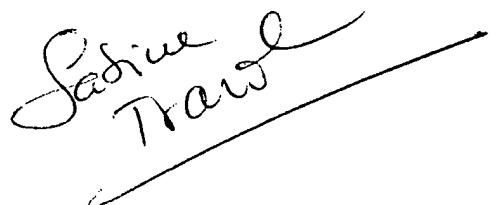
I, undersigned, Sabine TRACOL, from BREDEMA, Patent & Trademark Attorney, 38 avenue de l'Opéra F-75002 PARIS, France, declares that:

BREDEMA is the French agent of SPINEVISION for the international patent application N° PCT/FR2005/000340 filed on February, 11, 2005, regarding « DEVICE FOR MONITORING THE PENETRATION OF AN INSTRUMENT INTO AN ANATOMICAL STRUCTURE » the inventorship of which includes Mr. Gérard Vanacker. On August, 11, 2006, the US national phase was filed before the USPTO and was given the following serial number: 10/589,314.

On January, 21, 2008, I personally sent to Mr. Vanacker a registered letter, including a complete copy of the American application No. 10/589,314, together with a Combined Declaration and an Assignment. The letter explained that, as an inventor of the application, Mr. Vanacker was requested to sign both documents in order to make this US application regular, and to send back the executed documents to BREDEMA at the latest on February, 10, 2008. On January, 31, 2008, we received the postal evidence proving that the letter and enclosures were safely delivered to Mr. Vanacker on January, 29, 2008. Today, February, 15, 2008, the letter has remained unanswered and the needed executed documents have not been received by BREDEMA.

To whom it may concern

Paris, February, 15, 2008

A handwritten signature in black ink, reading "Sabine Tracol", is written diagonally across a line. The signature is fluid and cursive, with "Sabine" on the upper line and "Tracol" on the lower line.



BREDEMA
IP Assets Management & Strategy
CONSEIL EN PROPRIÉTÉ INDUSTRIELLE
EUROPEAN PATENT, TRADEMARK & DESIGN ATTORNEYS

Privileged
and
confidential

Pierre BREESE - Président
Marc BROYDE
Jean-Benoit BUSNEL
Anne DESMOUSSEAUX
Alain KAISER

Eric ENDERLIN
Guillaume MORTREUX
Thierry SCHWARTZ

François DÜSOLIER
Elisabeth THOURET LEMAITRE

Recommandé AR

Monsieur Gérard VANACKER
Villa Saint-Antoine
2 rue du Sautquet
83380 LES ISSAMBRES
FRANCE

Paris, 21/01/2008

N/Ref : 35905/PCT/US
MD/CPE_220254_LCC/4GB/RW
V/Ref : -

Objet Demande de brevet USA N° 10/589,314 correspondant au PCT/FR2005/000340 en date du 11/02/2005
"Device for monitoring the penetration of an instrument into an anatomical structure"

Monsieur,

Selon les instructions de SPINEVISION, nous avons procédé au dépôt d'une demande de brevet aux États-Unis, phase nationale de la demande de brevet PCT/FR2005/000340 du 11/02/05, dont vous êtes un des inventeurs.

Pour la régularisation de cette demande auprès de l'office des brevets américain et la poursuite de la procédure, il est indispensable de déposer un pouvoir (*Combined Declaration*) et une cession (*Assignment*) signés des inventeurs. Aussi, nous vous remettons en annexe (compte tenu de l'importance de ces documents, nous nous permettons de vous les adresser par courrier recommandé), outre un exemplaire des pièces déposées de la demande, les formulaires en question, que nous vous serions très obligés de dater, signer et de nous retourner (*original par courrier*) dans les meilleurs délais à votre convenance et AVANT LE 10 FÉVRIER 2008.

Vous remerciant par avance de votre diligence en la matière, nous vous prions d'agréer, Monsieur, l'assurance de notre considération distinguée.

Sabine Tracol
Service Administratif Brevets

P.J. : Combined Declaration and Power of Attorney - Assignment
Fascicule de Publication de la demande PCT
Traduction anglaise et texte remanié pour répondre aux exigences formelles de l'office
Preliminary Amendment

BREDEMA
IP Assets Management & Strategy
INDUSTRIAL PROPERTY ATTORNEY
EUROPEAN PATENT TRADEMARK & DESIGN ATTORNEYS

Registered letter with Acknowledgement of Receipt
Mr. Gérard VANACKER
Villa Saint-Antoine
2 rue du Sautquier
83380 LES ISSAMBRES
France

Paris, Janauary, 21, 2008
O/Ref. : 35905/PCT/US
MD/CPE_220254_LCC/4GB/RW
Y/ref. : -

Re : US Patent application No. 10/589,314 corresponding to PCT/FR2005/000340 filed on
February, 11, 2005
« Device for monitoring the penetration of an instrument into an anatomical structure »

Dear Sir,

As instructed by SPINEVISION, we have filed a patent application in the USA, national stage of PCT/FR2005/000340 filed on February, 11, 2005, for which you are named as an inventor.

In order to complete this application before the USPTO and to have it processed in due course, it is compulsory to file a Power of Attorney (*Combined Declaration*) and an Assignment (*Assignment*) executed by the inventors. Therefore, we take the liberty of including herewith said documents (due to their importance, we send them via registered letter with Acknowledgement of Receipt), together with the application documents as filed. Kindly have them **dated, signed and sent back to us (original documents by mail)** at your earliest convenience and **BEFORE FEBRUARY, 10, 2008**.

With many thanks in advance for your prompt assistance in this matter, we remain,

Yours sincerely ;

Sabine Tracol
Patent Formality Dept

Encl. : Combined Declaration and Power of Attorney – Assignment
PCT Publication pamphlet
English translation and amended text to meet the formal requirements of the office
Preliminary Amendment

RECOMMANDÉ AVEC AVIS DE RÉCEPTION

LA POSTE

Destinataire

M. Gérard VANDACHER
Villa Savus Antistie
9 Rue du Jeu du Jeu
63380 LES JESANBRES

Présentation le : / /

Distribution le : / /

Signature du destinataire ou du mandataire (Précisez nom et prénom)

RETOUR

Identité ou raison sociale : **Expo de l'Opéra**

Expédition : **38 avenue de l'Opéra**

Code postal : **75002**

Ville de la voie : **PARIS**

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LIBELLE DE LA VOIE

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LETTERE PRIORITAIRE

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LA POSTE

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Prix : **CRBT**

Niveau de garantie (valeur au dessus) : **R1** **R2** **R3**

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Proof of sending

~~Mr. Gérard VANACHTER
Villa Sainte-Anne
2 rue du Saumur
83380 LES ISSAMBRES~~

Présentation le : 1/1/08
Distribution le : 29/01/08
Signature du destinataire ou du mandataire
(Précisez nom et prénom)

RCS PARIS 356 000 000

RECOMMANDÉ :
AVIS DE RÉCEPTION

SGR2 VS - PFC 18 - 20080757713 - 1107



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FRAB



BREDE NA

38 avenue de l'Opéra
75002 PARIS

Acknowledgement of receipt - January, 29, 2008


Teissonnière Sardain Chevè
 PARIS | BRUXELLES

Guillaume Teissonnière

Frédéric Sardain

Laurence Chevè

avocats associés

Pr. Philippe Gaudrat
consultant

Elisabeth Nénon

Cécilia Bolle af Gennäs

Céline Martin

avocats

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MAR 7 2008

IP DEPT.

Vos réfs. : Brevet USA n°10/589.314 - Brevet PCT/FR2005/000340
en date du 11/02/2005
BREDEMA
 Conseils en Propriété Industrielle
 Madame Sabine TRACOL
 Service administratif brevets
 38, Avenue de l'Opéra
 75002 PARIS

*Par télecopie : 01.47.03.67.79
(1 page, celle-ci incluse)
Elisabeth Nénon*

Paris, le 16 février 2008

Chère Madame,

Je réponds à la lettre du 21 janvier dernier que vous avez adressé à notre client, Monsieur Gérard VANACKER, concernant la demande de brevet ci-dessus référencée.

Je vous indique par la présente que Monsieur Gérard VANACKER s'oppose catégoriquement à la cession de ladite demande de brevet américain au profit de la société SPINEVISION.

Pour votre information, une procédure est actuellement pendante devant le Tribunal de Grande Instance de Paris à l'encontre de la société SPINEVISION relativement à l'exploitation de la demande de brevet internationale PCT/FR2005/000340 déposée le 11 février 2005 et ayant donné lieu à cette demande de brevet américain.

En outre, la société SPINEVISION a initié une procédure devant le Conseil des Prud'hommes de Paris le 27 novembre dernier afin de contester la qualité de salarié de notre client au sein de la société.

En conséquence, je vous prie de bien vouloir noter qu'aucun acte de cession et qu'aucun pouvoir ne vous sera adressé à ce titre, ce dont l'USPTO va être informé.

Veuillez accepter, Madame, l'expression de mes salutations distinguées,



Elisabeth NÉNON

TSC Teissonnière Sardain Chevé
PARIS | BRUXELLES

Guillaume Teissonnière
Frédéric Sardain
Laurence Chevé
Attorneys – Partners

Pr. Philippe Gaudrat
Consulting

Elisabeth Nénon
Cécilia Boije af Gennäs
Céline Martin
Attorneys

Y/Ref. : Patent USA n° 11/589.314 – Patent PCT/FR2005/000340
dated 02/11/2005

RECEIVED

MAR - 7 2008

IP DEPT.

BREDEMA
Industrial Property Attorney
Ms. Sabine TRACOL
Patent Formality Dept
38 avenue de l'Opéra
75002 PARIS

Via facsimile : 01.47.03.67.78
(1 page, including this one)
And by mail

Paris, February 16, 2008

Dear Ms. Tracol,

Further to the letter dated January, 21, 2008, you sent to our client, Mr. Gérard Vanacker, and regarding the above quoted patent application, I inform you hereby that Mr. Vanacker is absolutely opposed to the assignment of his rights in said American patent application to SPINEVISION company.

For your information, there is a pending procedure before the Paris Court against SPINEVISION company, relating to the commercialization of the international patent application PCT/FR2005/00340 filed on February, 11, 2005, which said American patent application is a continuation of.

Furthermore, SPINEVISION has, on November, 27, 2007, gone to the Paris Industrial Conciliation Board and begun a procedure in order to contest our client's entitlement to the status of SPINEVISION's employee.

As a result, kindly note that no assignment and no declaration will be sent to you regarding this matter, and that the USPTO will be notified accordingly.

Yours sincerely,

Signed
Elisabeth NENON

